

IN THE UNITED STATES DISTRICT COURT OF OKLAHOMA
NORTHERN DIVISION

1. SHERRY J. SIMPSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:17-cv-00594-JED-FHM
)	
1. COBB-VANTRESS, INC., and)	
2. SHERRY BURGER,)	
)	
Defendants.)	

DEFENDANTS' NOTICE OF REMOVAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1441, *et seq.*, Defendants Cobb-Vantress, Inc. and Shari Burger (incorrectly listed as “Sherry Burger”) (collectively “Defendants”), give notice of the removal of this action from the District Court of Delaware County, Oklahoma to the United States District Court for the Northern District of Oklahoma. Defendants remove the case without waiving, and while reserving, all procedural and substantive rights and defenses. Defendants state the following in support of removal:

1. On or about April 7, 2016, Plaintiff filed her Petition against Defendants in the District Court of Delaware County, Oklahoma, captioned *Sherry J. Simpson v. Cobb-Vantress, Inc., and Sherry Burger*, Case No. CJ-2017-00045 (the “State Court Action”).

2. In her Petition, among other claims, Plaintiff asserts claims for alleged FMLA retaliation and FMLA interference under the Family and Medical Leave Act, 29 U.S.C. § 2601, *et seq.* (Petition, Counts II and III).

3. Accordingly, this Court has original federal question jurisdiction under 28 U.S.C. § 1331 because the claims contained in Counts II and III of Plaintiff's Petition are based on claims arising under the laws of the United States of America.

4. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiff's breach of contract claim contained in Count I of her Petition because that claim is so related to Counts II and III that they form part of the same case or controversy.

5. Defendants were served with the Summons and Petition in the State Court Action on October 2, 2017. Pursuant to 28 U.S.C. § 1446(b), Defendants have 30 days following service to remove this action to this Court; the date on or before which Defendants are required by law to remove this action is November 1, 2017, and this Notice of Removal is timely filed.

6. The District Court of Delaware County, Oklahoma is located within the Northern District of Oklahoma. Venue is proper in this Court because it is the "district and division embracing the place where such [state court] action is pending." 28 U.S.C. § 1441(a). This Notice of Removal is appropriately filed with the Court Clerk's Office in Tulsa, Oklahoma.

7. In accordance with 28 U.S.C. § 1446(a), a copy of the entire file in the State Court Action, including all pleadings and papers that have been filed and served on Defendant in the State Court Action, are attached to this Notice as **Exhibit 1** (Petition), **Exhibit 2** (Summons), and **Exhibit 3** (Entry of Appearance for both of Plaintiff's Counsel). Plaintiff has not served upon Defendants any other process, pleadings or orders.

8. Also attached to this Notice as **Exhibit 4** is a copy of the docket sheet from the State Court Action.

9. Defendants will promptly, upon filing this Notice of Removal, give written notice to Plaintiff's Counsel and will file a copy of this Notice of Removal with the District Court of

Delaware County, Oklahoma, as required by 28 U.S.C. § 1446(d). Attached to this Notice as **Exhibit 5** is a copy of the Notice of Defendants' Notice of Removal to Federal Court, which is being filed with the District Court of Delaware County, Oklahoma.

10. Exhibits 1 through 5 constitute all records and proceedings had in the State Court Action.

WHEREFORE, Defendants hereby notify this Court, Plaintiff, and the District Court of Delaware County, Oklahoma that the above-captioned matter has been removed to this Court.

Respectfully submitted,

/s/ J. Randall Coffey

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ATTORNEYS FOR DEFENDANTS
COBB-VANTRESS, INC. AND
SHARI BURGER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 24, 2017, he electronically filed the foregoing **DEFENDANTS' NOTICE OF REMOVAL** with the Court CM/ECF filing system, which will send notification of such filing to the following counsel of record:

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/s/ J. Randall Coffey
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